Regulatory Dispatch

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

2022 Fair Lending Interagency Webinar

Tuesday, December 6, 2022

Times: 11:00 a.m. - 12:30 p.m. Pacific
12:00 p.m. - 1:30 p.m. Mountain
1:00 p.m. - 2:30 p.m. Central
2:00 p.m. - 3:30 p.m. Eastern

Speakers at this event will represent the following eight federal agencies:

- Consumer Financial Protection Bureau
- Department of Housing and Urban Development
- Department of Justice
- Federal Deposit Insurance Corporation
- Federal Housing Finance Agency
- Federal Reserve Board
- National Credit Union Administration
- Office of the Comptroller of the Currency

During this session, a variety of fair lending topics will be discussed, including redlining, appraisal bias, Special Purpose Credit Programs, and other supervision and/or enforcement-related updates from the agencies.

The agencies will follow the presentation with a Questions and Answers segment, where they will respond to questions. To facilitate this session, please send in your questions in advance of the webinar via e-mail.

Registration

Please click on the URL or copy and paste it into your browser to register for this webinar: https://stlouisfed-org.zoomgov.com/webinar/register/WN_tGNM9OiaTlCCEJ4XhAFjxA. This event has been approved by ABA Professional Certifications for 2 CRCM CE credits.

Comment: 'Fairness' continues to be hot topic in 2022. This will be a great learning opportunity to hear directly from the regulators on fair lending. All compliance professionals should be tuned into this program for sure.

Community Banker Q&A

Q. Can the bank close on a loan in which the borrower has adequate flood insurance, but the bank is not named as the loss payee?

A. The answer seems to be 'Yes.' This is more a safety and soundness issue than a compliance issue. The Flood Disaster Protection Act (FDPA) provides that a bank may not make, increase, extend, or renew any loan secured by improved real property that is located in a Special Flood Hazard Area unless the improved real property is covered by the minimum amount of flood insurance required by statute. However, the FDPA does not specifically address the bank, as the lender, being named the loss payee.

Logically, it makes no sense to require flood insurance when the lender is not named the loss payee, but there is no statutory support for that. Your regulatory will likely not provide a citation (because there isn't one) BUT you will definitely see criticism of the bank's flood program from both a compliance standpoint referring to inadequate monitoring and review of controls and from a safety and soundness standpoint referring to the risk of loss.

Items of Interest

Bank Management

	CSBS President and CEO James M. Cooper Statement on FDIC Board Chair Nomination (11/18/2022) - Washington, D.C. – "Today's announcement from the White House means that none of the nominees to the FDIC Board will meet the requirement for state bank supervisory experience. This requirement is not only the law but also a great benefit for consumers and the banking sector when the dual-banking system is fully represented on the FDIC Board. We encourage Senators, in their role in the confirmation process, to ask nominees how they will work with state bank regulators to benefit from their experience sitting closer to citizens and local economies." ***Comment: The CSBS is spot on here. It is a requirement that the FDIC board have at least one member that has experience supervising community banks. A 'requirement' is not merely a suggestion.***
	CFPB Using Complaint Data to Help Cities and Counties Protect the Public (11/18/2022) - Engaging with local governments is a win-win for consumers and the CFPB. It helps protect as many consumers as possible from predatory lending, barriers to credit, and other consumer harms. To increase the impact of our complaint data, we're sharing it with cities and counties so they can increase their efforts to protect consumers at the local level. Among other responsibilities, local governments protect their constituents by calling out financial fraudsters and predatory financial products and services. Through the CFPB's secure Government Portal, local governments can directly submit constituents' complaints and get responses from the companies. The complaint data can also help local government officials identify what gaps exist, and what fixes are needed – thereby helping them in their mission to foster increased consumer awareness and eventual empowerment.

	Additionally, cities and counties are best equipped to identify bad actors and enforce their own consumer protection laws to protect consumers. ***Comment: This has the potential to open a can of worms regarding privacy and the sharing of information. Let's hope that before submitting complaints from their constituents to the CFPB regarding a local community bank, those local government officials take time to understand the various nuances of the consumer protection regulations.***
	OCC Acting Comptroller Emphasizes Caution with Crypto (11/17/2022) - WASHINGTON—Acting Comptroller of the Currency Michael J. Hsu discussed the continued risks of crypto to consumers during remarks before the U.S. Department of the Treasury's Financial Literacy Education Commission. In his remarks, the Acting Comptroller emphasized the Office of the Comptroller of the Currency's careful and cautious approach to crypto that has helped mitigate the risk of contagion to the banking system. Related Links • Remarks (PDF) ***Comment: Harkening back to May of this year, Acting Director Hsu noted at that time the volatility in crypto and digital assets and the associated vulnerabilities pose significant financial risks. The recent revelations involving SoFi and FDX have done nothing to quell those concerns.***
	FRB The Economic Outlook and a Word of Caution on Inflation Governor Christopher J. Waller (11/16/2022) - *Economic growth in the United States has slowed significantly in 2022, and I expect that slow growth to continue into next year. After shrinking slightly in the first half of this year, real gross domestic product rebounded in the third quarter to a 2.6 percent annual growth rate. But all indications are that this was a temporary boost, and that weak growth has returned in the last quarter of this year and will persist into 2023. Consumer and business spending has softened, amid deteriorating business sentiment in most sectors of the economy and near-record-low readings on surveys of consumer attitudes about the economy. There is no secret about why—inflation is very high, something people are reminded of every day when they see the prices of things they buy go up. On top of that, higher interest rates are raising borrowing costs for businesses and households.* *At any other time, I would be pretty unhappy about slowing growth, but not now. If you believe, as I do, that supply bottlenecks in the economy have mostly abated and that elevated inflation is primarily a function of high demand, then slowing down economic growth is absolutely necessary to bring inflation down to our 2 percent target. This slowing in activity is a sign that actions taken by the Federal Reserve this year to reduce inflation are working. Let me take a few minutes to explain how.* *The Federal Reserve tightens monetary policy to reduce inflation primarily by raising short-term interest rates, which has the effect of boosting interest rates throughout the*

economy. Higher borrowing costs curtail spending and investment by households and businesses. Since the FOMC pivoted in late 2021 in response to upwardly revised labor data and higher than anticipated inflation data, rates for 30-year fixed-rate home mortgages are up from around 3 percent to 7 percent today. Rates for triple-B corporate bonds have roughly doubled in 2022, and rates on higher yield debt have increased even more. As a result, there is a slowdown in the volume of financing in most markets, with some effect on various prices.

To keep reading, click here.

Comment: Community bankers remain concerned, but slightly less so, about the overall state of the economy. The Fed has warned that inflation has improved but remains far above the targeted 2% goal foreshadowing additional rate increases.

CFPB Supervisory Examinations Find Credit Reporting Failures, Junk Fees, and Mishandling of COVID-19 Protections (11/16/2022) - Today, the CFPB released a new Supervisory Highlights report on legal violations identified during the CFPB's supervisory examinations in the first half of 2022. The report details these key findings across consumer financial products and services:

- Consumer reporting companies and data furnishers continued to violate the Fair Credit Reporting Act (FCRA) by failing to promptly address and update incorrect information on credit reports.
- Mortgage servicers charged impermissible fees when homeowners went to make their mortgage payments.
- Auto loan servicers engaged in unfair and deceptive acts or practices related to add-on product charges, loan modifications, double billing, electronic devices that interfere with driving, and debt collection tactics.
- Financial institutions' policies and procedures may have resulted in consumers losing their COVID-19 pandemic relief benefits due to garnishments or setoff practices.

Supervisory examinations review whether companies are complying with federal consumer financial law. When CFPB examiners uncover problems, they share their findings with companies to help them remediate the violations. Typically, companies take actions to fix problems identified in examinations. For more serious violations or when companies fail to take corrective actions, the CFPB opens investigations for potential enforcement actions.

Comment: Once again, how is a fee that is properly disclosed and contracted for a 'junk' fee? The CFPB apparently thinks bank core processors give away their services to banks, and the employees who deal with these situations do so for free.

	FRB Supervision and Regulation Vice Chair for Supervision Michael S. Barr (11/15/2022) - Accompanying my testimony today is the Federal Reserve's Supervision and Regulation Report detailing the current state of the banking system from our supervisory and regulatory perspective. My testimony will offer you an overview of the banking system's current conditions and highlight efforts to monitor and mitigate vulnerabilities. I will also provide updates on a number of priority issues that the Federal Reserve is seeking to address. To keep reading, click here. ***Comment: In his speech, Vice Chair Barr lays out the banking system's current conditions and the Fed's ongoing efforts to monitor and mitigate vulnerabilities which he says includes making the system 'fairer.'***

BSA / AML

Deposit / Retail Operations

	FTC No, That's Not the IRS Texting About a Tax Refund 0r Rebate. It's a Scam (11/23/2022) - IRS impersonators have been around for a while. But as more people get to know their tricks, they're switching it up. So instead of contacting you about a tax debt and making threats to get you to pay up, scammers may send you a text about a "tax rebate" or some other tax refund or benefit. Here's what to know about the new twist. ***Comment: Remember that if a scammer gets access to a consumer's account via fraud or deception, that is an unauthorized transaction under Regulation E and the accountholders liability will be determined solely upon when they reported the unauthorized transaction. Train and educate, and don't stop doing that.***
	FRB 4 Questions with FedNow Pilot Participant, Kevin Olsen of Pidgin (11/17/2022) - Our latest Pioneers of Now profile features Kevin Olsen, senior vice president of innovation and strategy at Pidgin. During a recent conversation, he shared his advice for financial institutions planning to implement the FedNow Service, his favorite instant payments use case and predictions for the future. Read more. ***Comment: Does your bank have a strategy for FedNow?***
	FRB Begin Your Fight Against Synthetic Identity Fraud (11/16/2022) - How can the threat of synthetic identity fraud be addressed? Where does one even start and what opportunities exist to support mitigation efforts?

These are common questions. To help financial services and fraud professionals – and the broader industry – more easily find information about products and services for fighting synthetic identity fraud, the Federal Reserve recently released a list of synthetic identity fraud mitigation service providers.

As a new module within the Fed's online Synthetic Identity Fraud Mitigation Toolkit, learn more about the variety of providers with offerings for mitigating this type of fraud – in one place!

Comment: A synthetic identity is a combination of fabricated credentials where the implied identity is not associated with a real person. Fraudsters may create synthetic identities using potentially valid social security numbers (SSNs) with accompanying false personally identifiable information (PII).

Human Resources

Lending

CFPB Announces Asset-Size Threshold Adjustments Under FCRA (11/22/2022) - The Bureau has issued the Fair Credit Reporting Act (FCRA) annual threshold adjustment final rule. The Bureau has announced the annual adjustment to the maximum amount consumer reporting agencies may charge consumers for making a file disclosure to a consumer under the FCRA. The ceiling on allowable charges under Section 612(f) of the FCRA will increase to $14.50, effective for 2023.

This adjustment is effective on January 1, 2023.

You can access the FCRA notice at: www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/fair-credit-reporting-act-disclosures/].

Comment: This is a regular, statutory increase adjusted for inflation. Update your pricing accordingly.

FRB Industrial Production and Capacity Utilization - G.17 (11/16/2022) - Industrial production decreased 0.1 percent in October, and its gain in September was revised down to 0.1 percent. Manufacturing output edged up 0.1 percent in October, and its increases in July, August, and September were all lower than previously reported. In October, the index for mining stepped down 0.4 percent, and the index for utilities fell 1.5 percent. At 104.7 percent of its 2017 average, total industrial production in October was 3.3 percent above its year-earlier reading. Capacity utilization decreased 0.2 percentage point in October to 79.9 percent, a rate that is 0.3 percentage point above its long-run (1972–2021) average.

Technology / Security

	CISA Current Activity Page – (11/25/2022) - The US-CERT Current Activity web page is a regularly updated summary of the most frequent, high-impact types of security incidents currently being reported to the US-CERT. ***Comment: CISA has released multiple updates and alerts on their 'activity page.' Ensure your IT staff is regularly monitoring for alerts and updates including those from CISA.***

Selected federal rules – proposed

Proposed rules are included only when community banks may want to comment. Date posted may not be the same as the Federal Register Date.

PROPOSED RULE WITH REQUEST FOR PUBLIC COMMENT

11.07.2022 FRB Guidelines for Evaluating Account and Services Requests - The Board of Governors of the Federal Reserve System (Board) is issuing a request for comment on proposed amendments to its Guidelines for Evaluating Account and Services Requests (Account Access Guidelines or Guidelines) that would require the Federal Reserve Banks (Reserve Banks) to publish a periodic list of depository institutions with access to Reserve Bank accounts and/or financial services. **DATE: Comments must be received on or before January 17, 2023.**

11.07.2022 CFPB Notice and Request for Comment Regarding the CFPB's Inquiry Into Big Tech Payment Platforms - On October 21, 2021, the Consumer Financial Protection Bureau (Bureau or CFPB) ordered six large technology companies operating payments systems in the United States to provide information about certain of their business practices. Accompanying the orders, the Director of the Bureau issued a statement and invited interested parties to submit comments to inform the Bureau's inquiry. The statement and request for comment was published in the on November 5, 2021, in a document titled, "Notice and Request for Comment Regarding the CFPB's Inquiry into Big Tech Payment Platforms." The Bureau has determined that it is appropriate to re-open the docket for 30 days from publication and add two questions. **DATES: Comments must be received on or before December 7, 2022.**